



Appeal Decisions

Site visit made on 7 November 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal A Ref: APP/B1415/W/24/3337160

Second and Third Floor, Bank Chambers, 28 Havelock Road, Hastings, TN34 1GW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by USE Architects against the decision of Hastings Borough Council.
 - The application Ref is HS/FA/23/00530.
 - The development proposed is described as 'formation of new Flats on 2nd & 3rd Floor Office accommodation of existing listed premises. No new works to existing Heritage front facade. New windows and roof extension to rear sections of site not considered of Heritage value. Internal alterations to 2nd & 3rd Floor interiors also not of Heritage value. Formation of new roof terrace amenity with decking.'
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Appeal B Ref: APP/B1415/Y/24/3337161

Second and Third Floor, Bank Chambers, 28 Havelock Road, Hastings, TN34 1GW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by USE Architects against the decision of Hastings Borough Council.
 - The application Ref is HS/LB/23/00531.
 - The works proposed are described as 'formation of new Flats on 2nd & 3rd Floor Office accommodation of existing listed premises. No new works to existing Heritage front facade. New windows and roof extension to rear sections of site not considered of Heritage value. Internal alterations to 2nd & 3rd Floor interiors, also not of Heritage value, involving demolition of interior walls and partitions. Formation of new roof terrace amenity with decking.'
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the change of use of second and third floor office to 4 flats (C3), proposed third floor extension to rear projection, formation of a roof terrace with decking and creation of windows to rear elevation at Second and Third Floor, Bank Chambers, Hastings, TN34 1GW in accordance with the terms of the application, Ref HS/FA/23/00530, subject to the conditions in the schedule at the end of this decision.

Appeal B

2. The appeal is allowed and listed building consent is granted for the change of use of second and third floor office to 4 flats (C3). Proposed third floor extension to rear projection, formation of a roof terrace with decking and creation of windows to rear elevation at Second and Third Floor, Bank

Chambers, Hastings, TN34 1GW in accordance with the terms of the application, Ref HS/LB/23/00531, and either the set of plans submitted with the application or the alternative set of plans submitted at appeal stage, subject to the conditions in the schedule at the end of this decision.

Preliminary matters

3. The entered name for the appeal building on the National Heritage List for England and its accompanying plan is 'Number 1, Bank Buildings', rather than 'Bank Chambers, 28 Havelock Road' as used by the appellant and Hastings Borough Council. As local planning authorities use the system of Unique Property Reference Numbers to identify each addressable location in the country, in this decision I have therefore utilised the list name for the description of the building and the name and street number for the building used by the local authority for its address.
4. The description of the proposed development and works used in the banner headers above changed during the course of the determination of the applications. The revised description is 'Change of use of second and third floor office to 4 flats (C3). Proposed third floor extension to rear projection, formation of a roof terrace with decking and creation of windows to rear elevation'. As this revision was agreed by both parties, and more concisely describes the proposed development and works, I have used this description in the determination of the appeals.
5. At appeal stage the Council stated that the application for planning permission and listed building consent had not been properly made and expressed concerns that this meant that the appeal was invalid. This was because the incorrect ownership certificate had been signed and the freehold owner had not been notified of the proposals.
6. The purpose of the notification of a planning application to all owners of the land involved is so that no prejudice is caused and to allow them, if they so wish, to comment upon the proposal. Given that during the course of the appeal, notice was served on the freeholder (NatWest Markets Plc) by the appellant giving them the opportunity to comment, the failure to issue the correct certificate does not warrant in this instance finding that the appeals are invalid.
7. The letter from the local planning authority advising the appellant of their concerns regarding the validity of the applications mentioned that due to the freehold landlord not consenting to use of the second floor roof terrace it had been removed from subsequent proposals¹ for development of the building.
8. At my invitation, the appellant responded to this matter by stating that it was not yet known whether the freehold owner would allow the roof area to be used as a terrace. To cover this eventuality, he submitted a set of plans as an alternative to the appeal scheme deleting the second floor roof terrace. The local planning authority were invited to comment on whether these alternative plans should be taken into account as part of the appeal, and if they were, whether there would be any implications for the quality of the proposed development and the effects of the proposed works. The response that was

¹ Letter dated 25/9/24

received has been taken into account in deciding whether the alternative set of plans should be considered as part of the appeals.

9. In my judgement, the deletion of the second floor roof terrace in the alternative scheme does not amount to a substantial difference to what is proposed, nor does it represent a fundamental change. This is because it relates to a subsidiary feature of the proposed development which, in terms of change of use and the number and internal size of apartments proposed, would remain the same. Moreover, as the concerns of interested parties are known, and as the deletion of the terrace reduces, rather than increases, the extent of development, no interested parties who would normally have been consulted on this matter would be disadvantaged if these plans were taken into account. Accordingly, I shall also consider the alternative set of plans in the determination of both appeals.
10. In the local planning authority comments on the alternative plans, they pointed out that no amended site location plan had been submitted with a reduced red line boundary demonstrating the removal of the second floor roof terrace. I have dealt with this matter in the conditions section of this decision.
11. Both appeals relate to the same proposal under different but complementary legislation. Where possible, I have therefore dealt with both appeals together in my reasoning.
12. For the purposes of both appeals, where internal works have already occurred, I have assessed the proposals against the submitted plans, rather than against what has been built.
13. A revised National Planning Policy Framework ('the Framework') was published on 12 December 2024 after statements in relation to both appeals had been submitted and final comments made. However, as no changes were made to the conserving and enhancing the historic environment chapter of the Framework, and the changes that were made to other parts of the document are not material to this decision, the cases of the parties have not been prejudiced by not being able to comment on the revised Framework. I have therefore determined the appeal on the basis of the statements and comments that have been received.

Main Issue

14. The main issue in both appeals is whether the proposed development and works would preserve the Grade II listed building, Number 1, Bank Buildings, or any features of special architectural or historic interest that it possesses.

Reasons

15. The National Planning Policy Framework ('the Framework') is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 212 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a listed building, great weight should be given to the asset's conservation.
16. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

Special interest and significance

17. The appeal relates to the upper two floors of the Grade II listed building, Number 1, Bank Buildings (List Entry No: 1484035) which is located within the Hastings Town Centre Conservation Area.
18. Bank Buildings is a terraced row of buildings and Number 1 occupies its western end. The building was constructed in 1857 for the London and County Bank, which eventually became part of the NatWest Bank which still occupies the ground floor. The building is 4 storeys tall and has a neoclassical front elevation built of sandstone. Four giant fluted columns with Ionic capitals occupy the central part of the façade which is framed by flanking bays, rusticated masonry on the ground floor below and a subservient fourth storey above. The 4 storey side extension, which connects the building to the continuous run of more recent buildings along Havelock Street, dates from the early part of C20, is faced in ashlar stone and is designed in a far simpler classical style.
19. The rear of the building has a utilitarian appearance with its frame, which dates from early C20 re-building and remodelling, filled in by panels of plain brickwork. Internally, other than for the entrance staircase, front elevation windows with classical detailed surrounds and remnants of adjacent ceiling cornices, and the wooden sash windows within the main rear elevation, there is no fabric of obvious value in heritage terms.
20. Based upon what I have read and seen, as far as is relevant to the proposed development and works, the special interest and significance of the listed building is mainly due to its architecture and association with the development of commerce in the town. The form, balance and architectural features of its front elevation, together with the other internal features described, contributes to that significance.

Appeal proposal and effects on the listed building.

Development

21. There is no suggestion from the local planning authority that in principle the change of use of the second and third floor of the building from office use to residential is unacceptable. Based upon its town centre location, good access to services, facilities and public transport on foot and the emphasis in paragraph 125 of the Framework on supporting the development of under-utilised buildings, the building in principle is suitable for the proposed change of use.
22. The front elevation of the building and its high quality architecture would be untouched by the proposed development and works. The utilitarian rear would see the addition of a fourth storey to the narrow, 3 storey, back addition that projects off the western side of the building.
23. This addition would increase the scale and bulk of the building. However, its narrow width and height level with the main part of the building, together with its set back from the storey below, would be sufficient to ensure that the addition would appear subservient to the host building. The roof terrace that would be created by the set back of the fourth storey would be in a prominent position. However, it would be small in size and its high brick built balustrade would mean that it would complement the form of the building whilst subtly reducing the scale of the extension. Its small scale, and screening would also

mean that the terrace and activity on it would not dominate in views from Middle Street below or other buildings.

24. The rear elevation of the building is set within a utilitarian street scene of functional rear elevations on Middle Street at the point it transitions from nineteenth century buildings to those that were built in the latter half of the last century. In this context, whilst the proposed rear extension would occupy the space immediately above the existing back addition, it would complement the building and surroundings and would not harm the setting of the building as claimed by the local planning authority.
25. As part of the scheme that was the subject of the planning application, at second floor level the flat roof that projects across the rear of the main body of the building would be used as a roof terrace. This would introduce outdoor activity at a lower height than the proposed terrace to the rear of the back addition but on a far larger scale should future occupiers of the proposed flat have family or friends around. The retention though of the existing steel sheet balustrade would screen a significant amount of activity and the significant greater setback of this part of the building from the street to the rear would lessen its prominence. The application scheme, and the alternative scheme submitted at appeal stage which deletes the terrace across the rear of the main body of the building, would therefore be acceptable in design and heritage terms.
26. For the reasons given above, I therefore find that the proposed development would complement the listed building and would not adversely affect its special interest, significance or setting.

Works

27. Internally, away from the classical detailing around the front elevation windows and remnants of the ceiling cornice adjacent to the front elevation, the building takes on a more utilitarian form with steel and concrete combining to create the open plan frame of the building. The rear elevation consists of panels of common brick enclosing the frame of the building, including the back addition. As a result, the rear of the building is particularly plain and functional with only wooden sash windows within the rear elevation of the main part of the building in keeping with the older parts to the front. More recent metal sash windows are present within the back addition.
28. Connecting the third floor extension to the existing building would involve knocking through the external rear wall at third floor level. To give access to the second floor roof terrace, it also appears that a doorway would need to be created. Both pieces of work would involve the loss of historic fabric. However, as the fabric involved is common brick, this work would not have a material adverse effect on the special interest and significance of the building.
29. The new second floor internal walls that form the proposed layouts in either set of plans have largely not been erected. The utilitarian western staircase on the second floor, shown as being retained in the submitted plans, also largely appeared to have been filled in. In contrast, the third floor has been extensively sub-divided around a central corridor by new internal walls. Fixtures have also started to be installed. The constructed third floor layout though is quite different to that shown on the submitted plans.

30. The only exception to this is the western staircase which at second floor level has been sealed, rather than retained as shown on both sets of plans. This is self-evidently necessary in order to separate the habitable room in which the staircase would be located from the other uses of the building on the floors below. The staircase with its concrete steps and painted tubular steel balustrade is functional and is not of material architectural or historic significance. In heritage terms, its infilling on the second floor and infilling and complete removal on the third floor would therefore be acceptable.
31. Although locating what remains of the staircase within a bedroom on the second floor is an unusual arrangement, the retention of the remaining balustrade and steps would be acceptable in design terms.
32. The layout of both floors prior to the commencement of internal works was open plan. The proposed layout on the third floor would include the creation of two long corridors. However, it has long been a feature of such office buildings that the space on each floor can be subdivided according to the requirements of its occupiers. Moreover, the proposed living space that would be created in each of the third floor flats would be open plan and thus consistent with the former layout of this floor. In this context, the creation of two long corridors would be acceptable in design and heritage terms.
33. Other matters on the second floor, such as a proposed internal wall overlapping the edge of a window opening serving part of the utilitarian rear elevation which is out of public view, and a sink and worksurface serving no apparent purpose, have been identified by the Council. However, these matters would not result in substandard accommodation or materially harm the significance and special interest of the building.
34. Insufficient information has been provided regarding drainage and air extraction. If the appeals were allowed though, this could be addressed by a suitably worded condition.
35. For these reasons, I therefore find that the works to subdivide both floors would be acceptable in heritage terms.

Conclusion on the proposed development and works

36. Taking all these matters into account, I therefore find that whilst both schemes would result in change to the building by adding to its rear and altering it internally, both would preserve the listed building and its special interest in accordance with the statutory test. They would therefore also accord with policies HN1, HN2 and DM1 of the Hastings Development Plan, policies SC1 and EN1 of the Hastings Planning Strategy and relevant provisions of the Framework. These policies and provisions of the Framework, amongst other matters, seek good design and the conservation and enhancement of the historic environment.

Other Matters

37. The appeal property is located within the Hastings Town Centre Conservation Area (CA). The CA covers those parts of the town centre that contain well designed and older and historic buildings. Its significance is therefore architectural and historical. As a Grade II listed building the appeal premises make a positive contribution to the CA. The proposed development and works would complement the appearance of the appeal premises and the proposed

change of use of its upper floors to residential would be in keeping with the busy, mixed use character of the town centre and the CA. As a result, the proposals would complement the character and appearance of the CA considered as a whole.

Conditions

Appeal A

38. In the interests of certainty, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. In so doing, in relation to the alternative set of plans, I have not included the site and block plan. This is because the red line on these plans includes the area of the proposed second floor roof terrace which has been deleted from the rest of this set of drawings. This is possible because the proposed plans for each floor of the building clearly show, using a red line, the extent of the appeal site and the development proposed.
39. In the interests of flood safety, a Flood Emergency Plan is required and the development needs to be carried out in accordance with the recommendations of the submitted Flood Risk Assessment. In order to protect the amenity of the area and the living conditions of future residents, a suitable refuse storage area needs to be provided and arrangements for refuse collection confirmed. To safeguard the living conditions of future residents, bathroom windows also need to have obscure glazing. In the event that the development is carried out in accordance with the set of plans that includes a second floor balcony, a privacy screen serving the second floor terrace is needed to protect the privacy of the occupiers of neighbouring buildings.
40. To promote sustainable forms of transport the internal bicycle storage areas shown on the submitted plans need to be provided. To safeguard the amenity of nearby occupiers, the hours during which external work occurs needs to be restricted.

Appeal B

41. A condition has been suggested listing all the plans that the work should be carried out in accordance with. However, such a condition is not necessary for Appeal B as progressing the works in accordance with the submitted plans is part of the formal decision above.
42. To protect the architectural and historic character of the building, details of drainage, air extraction and the bricks, mortar, external fittings and the junction of the third floor extension with the building are needed. For the same reason, any damage caused to the building whilst carrying out the consented work needs to be promptly reported, together with details of proposed remedial work.
43. In the interests of maintaining the special interest of the building, a missing casement sash within the front elevation needs to be replaced. To inform the future protection of the heritage value of the building, prior to occupation a formal record of the second and third floor interiors is necessary.
44. I have required all the above matters in relation to appeal A and B by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

Conclusion

45. For the reasons given above, I conclude that both appeals should be allowed.

Ian Radcliffe

Inspector

Schedule

Appeal A – Planning permission ref APP/B1415/W/24/3337160

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with one of the two following sets of drawings: -

A - The set of drawings submitted with the application, refs: 28HR-PP-211A, 28HR-PP-212A, 28HR-PP-213, 28HR-PP-214A, 28HR-PP-214C-A, 28HR-PP-215A, 28HR-PP-216A, 28HR-PP-216B, 28HR-PP-217, 28HR-PP-217A, 28HR-PP-218A, 28HR-PP-218B, 28HR-PP-218E, 28HR-EX-131A.

B – The alternative set of drawings submitted at appeal stage deleting the second floor rear terrace, refs: 28HR-PP-213 rev A, 28HR-PP-214 rev B, 28HR-PP-214-C rev B, 28HR-PP-215 rev B, 28HR-PP-216-B Rev B, 28HR-PP-216 rev A, 28HR-PP-216-B Rev B
- 3) Prior to first occupation of the units hereby approved a Flood Emergency Plan (FEP) shall be submitted to and approved in writing by the Local Planning Authority. The FEP is to be drafted in accordance with the recommendations of the Flood Risk Assessment produced by STM Environmental Consultants Limited and shall include such details as, how residents can register with flood warning notification systems and the site evacuation procedures and routes.
- 4) The development hereby approved shall be carried out in accordance with the recommendations in the Flood Risk Assessment produced by STM Environmental Consultants Limited (dated 30.07.2021).
- 5) (i) The development shall not be occupied until full details of the refuse bins storage area have been submitted to and approved in writing by the Local Planning Authority.

(ii) No part of the development shall be occupied until all the approved details have been implemented. The refuse store and bin collection point shall thereafter be retained in perpetuity.
- 6) Prior to first occupation of the units hereby approved a waste management plan and waste method statement are to be submitted to and approved in writing by the local Planning Authority. These details shall include information on the private waste removal company responsible for the removal of waste and recycling from the site.

In the event that an alternative private waste company are contracted to remove waste from this site the Local Planning Authority are to be notified immediately. An updated Waste Method Statement and Waste Management Plan identifying the new contractor is to then be submitted

to the Local Planning Authority within 21 days of the notification. This requirement for records to be updated shall continue for the perpetuity of the development.

- 7) Any bathroom windows shall be obscure glazed with obscure glass to a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3, or similar equivalent and be permanently fixed shut and non-opening below 1.7 metres from finished floor level. The units hereby approved shall not be occupied until the obscure glass is installed, and once installed, the windows shall be permanently maintained in that condition.
- 8) No part of the development shall be occupied until the cycle storage areas been provided in accordance with plans 28HR-PP-213 and 28HR-PP-214A. Once provided these areas shall thereafter be retained and shall not be used for any purpose other than for the parking of cycles.
- 9) In the event that the development is carried out in accordance with the plans identified as set A in condition 2 above, prior to first occupation of the units hereby approved, details of a privacy screen which is to be installed to the external decked area at second floor level, including a timetable for its installation, are to be submitted to and approved in writing by the Local Planning Authority. The screen shall then be installed in accordance with the approved details and thereafter shall be retained for the perpetuity of the development. Should the privacy screens become damaged and require replacement, the replacement shall match the size, height and obscurity of those approved.
- 10) With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-
08.00 - 18.00 hours Monday to Friday.
08.00 - 13.00 hours on Saturdays.
No working on Sundays or Public Holidays.

Appeal B – Listed building consent ref APP/B1415/Y/24/3337161

- 1) The works authorised by this consent shall commence not later than 3 years from the date of this decision.
- 2) The works hereby permitted shall be carried out in accordance with the same set of plans that are implemented in Appeal A.
- 3) Prior to the commencement of works a proposed drainage and extract plan for both the second and third floors is to be submitted to and approved in writing by the Local Planning Authority. The drainage and extraction shall then be installed in accordance with the approved details prior to first occupation of the units approved in Appeal A.
- 4) Prior to the commencement of works details of suitable ventilation and sound proofing to the indoor refuse bins storage area shall be submitted to and approved in writing by the Local Planning Authority. Ventilation and soundproofing of this storage area shall be installed in accordance

with the approved details prior to first occupation of the units approved in Appeal A.

- 5) No works shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority:
- i.) Details of the proposed brick and mortar to be used for the proposed extension;
 - ii.) Details of any external pipe work, flues, vents and rainwater goods including the materials, finish (e.g., current catalogue details) to be used on the new extension;
 - iii.) Details of the proposed interface between the existing building and the new build at a scale of 1:10;
 - iv.) Methodology statement for the removal of the external wall at third floor level and the making good of the adjacent elements.

Works shall be carried out in accordance with the approved details and no occupation of any of the units approved in Appeal A shall occur until those works have been completed.

- 6) Prior to the commencement of the back addition roof extension element of the development approved in Appeal A evidence that a formal record of the second and third floor interiors of the premises has been provided to the East Sussex Historic Environment Record Department is to be submitted to and approved in writing by the Local Planning Authority. The submission to the East Sussex Historic Environment Record Department shall include, but not be limited to, the following documents submitted as part of the current application
- Heritage Statement
 - Photographs
 - Photographic Key Plan
- 7) The missing casement sash to the third floor, front elevation, is to be carefully removed to ensure no damage to the existing frame, associated mouldings and profiles. The replacement casement sash window is to exactly match the existing in a like-for-like manner with matching sections, profiles, materials, and finishes.
- 8) Any damage caused to the building by the carrying out of the works hereby approved shall be reported to the Local Planning Authority within 72 hours of the damage occurring. Details of any remedial works deemed necessary shall be submitted for approval in writing to the Council within 21 days of the damage being reported. The works shall then be carried out in accordance with the approved details within 3 months of the date of approval.

-----End of conditions schedule-----